

REMARKS

In the Office Action, the Examiner objected the drawings under 37 CFR 1.83(a), alleging that the drawings fail to show every feature of the invention specified in the claims; rejected claims 36 and 37 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention; and rejected claims 36 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Yokoi (JP-409077436-A) in view of U.S. Patent No. 3,982,718 to Folkenroth et al. ("Folkenroth").

Applicants gratefully acknowledge the Examiner's indication of allowable subject matter in claims 38-51 if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 36-51 remain pending in the application.

Applicants address the Examiner's objections and claim rejections as follows.

37 CFR 1.83(a) objection

In the Office Action, the Examiner stated that "the alignment of the outer surfaces of the top and the bottom cover ends (23a) must be shown to be positioned in alignment with a single plane ('the same plane'; claim 36 line 9) in Figure 2B or the feature(s) cancelled from the claim(s)." Office Action at p. 2.

Applicants respectfully traverse this objection because the Examiner mischaracterized the limitation. The Examiner based the objection on the ground that Figure 2B does not show the outer surfaces of the covers in the same plane. Claim 36, however, requires that "the covers and the cages are connected such that, at the point of connection, the outer surfaces of the covers and the cages are in the same plane."

(emphasis added). Figure 2B clearly shows this limitation. Therefore, the drawings comply with 37 CFR 1.83(a) because they do indeed show every feature of the invention specified in the claims.

Accordingly, Applicants respectfully request the Examiner withdraw the objection under 37 CFR 1.83(a).

35 U.S.C. § 112 rejection

Applicants respectfully traverse the rejection of claims 36 and 37 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Regarding claim 36, the Examiner argued again that Figure 2B does not show the outer surfaces of the covers “in the same plane.” Office Action at p. 3. As discussed above, claim 36 does not require the outer surfaces of the covers be in the same plane. Rather, it recites “at the point of connection, the outer surfaces of the covers and the cages are in the same plane.” Therefore, the rejection of claim 36 under 35 U.S.C. § 112, second paragraph should be withdrawn.

Regarding claim 37, Applicants respectfully disagree with the Examiner’s argument that “[i]t is unclear as to where a third portion of the doorside cover is disposed such that it extends from the lower end of the second portion of the doorside cover.” Office Action at p. 4. For example, Figure 2B shows that a doorside cover 23a comprises at least three portions - “a first portion extending downwardly from an end of an upper cage sill along a doorside inner wall of the hoistway, a second portion extending from a lower end of the first portion and curving into said space, and a third portion extending from a lower end of the second portion to a doorside end of a ceiling

of the lower cage,” as recited in claim 37. The Examiner might have mistaken the additional portion of cover 23a that, in Figure 2B, extends horizontally on top of the lower cage as the claimed “third portion.” See Office Action at p. 4.

Accordingly, Applicants respectfully request the Examiner withdraw the rejection under 35 U.S.C. § 112, second paragraph, and allow claims 36 and 37.

35 U.S.C. § 103(a) rejection

Applicants respectfully traverse the rejection of claims 36 and 37 as being unpatentable under 35 U.S.C. § 103(a) over Yokoi in view of Folkenroth. A *prima facie* case of obviousness has not been established.

To establish a *prima facie* case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

M.P.E.P. § 2143 (8th ed., revised on Aug. 2005).

The cited references, taken alone or in combination, fail to teach or suggest each and every element of claim 36. Claim 36 recites, for example, “covers positioned so as to cover a space between the upper cage and the lower cage at a doorside, two lateral sides, and a backside of the space, wherein the covers and the cages are connected such that, at the point of connection, the outer surfaces of the covers and the cages are in the same plane” (emphasis added).

The Examiner acknowledged that “Yokoi does not disclose a cover enclosure for the space between the upper and lower cages.” Office Action at p. 5. The Examiner cited Folkenroth as a teaching of “a cover for covering a space between a platform and

a base.” Even assuming the Examiner’s characterization of Folkenroth is correct, Folkenroth fails to cure the deficiencies of Yokoi. That is, Folkenroth also fails to teach that “the covers and the cages are connected such that, at the point of connection, the outer surfaces of the covers and the cages are in the same plane,” as recited in claim 36.

For example, the flexible cover 102 in Folkenroth is of “an accorian type,” which is “expansible and contractable vertically.” col. 7, lines 22-23. As the flexible cover 102 of Folkenroth moves, it expands and contracts. Folkenroth, col. 7, ll. 25-27 & 40-43; see also Figs. 1 & 3. Therefore, the flexible cover 102, supporting plate 10 and the upper edge of shroud 106 cannot be connected such that, at the point of connection, the outer surfaces of the flexible cover 102 and supporting plate 10 and the upper edge of shroud 106 are in the same plane.

Accordingly, Yokoi and Folkenroth, taken alone or in combination, fail to teach or suggest each and every element of amended claim 36. Therefore, claim 36 is allowable over Yokoi and Folkenroth.

Moreover, Applicants respectfully disagree with the Examiner’s assertion of motivation to combine Yokoi and Folkenroth by one having ordinary skill in the art. The Examiner admitted that Folkenroth discloses the cover “to conceal the drive mechanism therein between.” Office Action at p. 5. In contrast, the present application discloses the covers to “stabilize the airflow.” See Summary of Invention, pp. 2-3. Therefore, one having ordinary skill in the art would not be motivated to combine Yokoi and Folkenroth.

The Examiner further argued that “[i]t would have been further obvious to one having ordinary skill in the art at the time the invention was made to have aligned the

outer surface of the covers [102 of Folkenroth in Figure 1] with the outer surface of the upper and the lower cage[s] of Yokoi . . . in the same plane.” Office Action at p. 5. The Examiner appears to have taken official notice of facts not in the record or “common knowledge,” by arguing that one having ordinary skill in the art would modify Folkenroth’s cover such that “at the point of connection, the outer surfaces of the covers and the cages are in the same plane.” None of the references cited by the Examiner, however, teaches or suggests this limitation.

Therefore, applicants respectfully traverse the Examiner’s apparent assertion of official notice. The Examiner may not rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. M.P.E.P. § 2144.03(A). If the Examiner is to maintain this rejection, Applicants respectfully request the Examiner support this finding with adequate evidence. M.P.E.P. § 2144.03(C).

Accordingly, claim 36 is allowable over Yokoi and Folkenroth. Claim 37 depends from claim 36 and is also allowable at least due to its dependence on an allowable base claim

Conclusion

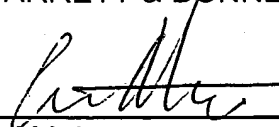
In view of the foregoing, Applicants request reconsideration of the application and timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 17, 2006

By: 
Lei Mei
Reg. No. 56,913